

Debtors' Ex. 95

Laws of Puerto Rico Annotated Currentness

Title 13. Taxation and Finance

Subtitle 17. Internal Revenue Code of 2011

Part IV. Excise Taxes

Chapter 1036. Time, Form of Payment, and Withholding

13 L.P.R.A. § 31751

§ 31751 Disposition of funds

(a) The proceeds of the taxes and license fees collected by virtue of this part shall be deposited in the General Fund of the Treasury of Puerto Rico except as provided below and in § 31751a of this title:

(1) The sum of the tax collected on gasoline and four cents (4¢) of the gas oil or diesel oil tax established by § 31626 of this title, and the total amount per fiscal year of the excise tax collected for crude oil, partially finished and finished oil by-products, and any other hydrocarbon mixtures established in § 31627 of this title, shall be covered into a special deposit in favor of the Highways and Transportation Authority for its corporate purposes.

(A) The Secretary shall transfer every month, or as agreed on with the Highways and Transportation Authority, the amounts covered into said special deposit, deducting from these the amounts reimbursed according to the provisions of §§ 31669 and 31670 of this title.

(B) The Secretary shall pay on a monthly basis the total revenues derived from the excise tax on crude oil, partially finished and finished oil by-products, and any other hydrocarbons blends fixed in § 31627 of this title.

(C) The Government of Puerto Rico hereby agrees and is committed to any person, firm, or corporation, or any agency of the United States of America, or of any state or of the Government of Puerto Rico, that subscribes or acquires bonds of the Highways and Transportation Authority of Puerto Rico for the payment of which the proceeds of the tax on gasoline, gas oil, or diesel oil and the amount appropriated of the excise tax on crude oil, partially finished and finished oil by-products, and any other mixture of hydrocarbons fixed in § 31627 of this title are thus pledged, as authorized by this section, to not reduce the tax on gasoline, gas oil, or diesel oil fixed in § 31626 of this title, to an amount of less than sixteen cents (16¢) per gallon of gasoline or of four cents (4¢) per gallon of gas oil or diesel oil, respectively, and to not reduce the rates fixed in § 31627 of this title in effect by the date of approval of this Code. It also agrees and is committed to not eliminate or reduce the tax to an amount less than sixteen cents (16¢) per gallon of gasoline or of four cents (4¢) per gallon of gas oil or diesel oil fixed in § 31626 of this title, nor reduce or eliminate the rates of the excise tax on crude oil, partially finished and finished oil by-products, and any other mixture of hydrocarbon fixed in § 31627 of this title. It also agrees and is committed to ensure that said amounts shall be covered into a special deposit in the name and for the benefit of the Highways and Transportation Authority of Puerto Rico, as provided in this section, until said bonds issued at any time, including their interest, have been paid in full.

(D) The payer of the excise tax on the sale of gasoline, gas oil or diesel oil, crude oil and other oil by-products shall furnish to the Highways and Transportation Authority copies of the tax statements and excise tax payment receipts.

(E) In event the amount of the proceeds from the tax on gasoline, gas oil, or diesel oil established in § 31626 of this title or that amount of the excise tax on crude oil, partially finished and finished oil by-products, and any other hydrocarbon blend established in § 31627 of this title, allocated or to be allocated in the future to the Highway and Transportation Authority may at any time be insufficient to pay the principal of and the interest on the bonds or other obligations over money taken on a loan or issued by the Highway and Transportation Authority to defray the cost of traffic facilities and for the payment of which the proceeds from the tax imposed on gasoline, gas oil, or diesel oil established in § 31626 of this title or the amount of the excise tax assessed on crude oil, partially finished and finished oil by-products, and any other hydrocarbon blend established in § 31627 of this title, has been pledged and the reserve funds of the Highway and Transportation Authority for the payment of debt service are applied to make up the deficiency in the amount needed to make such payments, the amounts of said reserve fund used to make up said deficiency shall be reimbursed to the Highway and Transportation Authority from the first proceeds received on the next fiscal year or subsequent fiscal years by the Government of Puerto Rico from: (1) any other taxes in effect on any other fuel or propellant used, among other purposes, to propel road vehicles; Provided, That, to prevent misunderstandings, the excise tax imposed by § 31627a of this title shall not be considered a tax on fuels or propellant used to propel road vehicles; and (2) any surplus of the tax on gasoline, gas oil, or diesel oil established in § 31626 of this title that are in effect. The proceeds from such other taxes and the remaining portion of the tax on gasoline and gas oil or diesel oil established in § 31626 of this title that are to be used as provided in this section to reimburse the reserve funds for debt service requirements, shall not be covered into the General Fund of the Government of Puerto Rico when collected, but rather into the aforementioned special deposit for the benefit of the Highway and Transportation Authority of Puerto Rico and subject to the provisions of [Section 8 of Article VI of the Constitution of Puerto Rico](#), to be used to reimburse said reserve fund for the payment of the debt service requirements.

(F) In the event the Commonwealth of Puerto Rico uses any portion of the revenues derived from the tax on gasoline, of the four (4) cents of the tax on gas oil or diesel oil imposed in § 31626 of this title, or the excise tax on crude oil, partially finished and finished oil by-products, and any other hydrocarbon blend fixed in § 31627 of this title for the payment of interest on and the amortization of the public debt as provided in [Section 8 of Article VI of the Constitution](#), the amount used by the Commonwealth of Puerto Rico for the payment of interest on and the amortization of the public debt shall be reimbursed to the Highway and Transportation Authority from the revenues collected by the Commonwealth of Puerto Rico in the following fiscal year or, if such reimbursement is not possible in the following fiscal year, in subsequent fiscal years, except those revenues that have been pledged to meet any obligation. The proceeds from such taxes that are to be used as provided in this section to reimburse to the Highway and Transportation Authority any amount used by the Commonwealth of Puerto Rico for the payment of interest on and the amortization of the public debt, shall not be covered into the General Fund of the Government of the Government of Puerto Rico when collected, but rather transferred to the Highway and Transportation Authority of Puerto Rico and subject to the provisions of [Section 8 of Article VI of the Constitution of Puerto Rico](#), shall be used to reimburse said amounts to the Highway and Transportation Authority.

(G) Notwithstanding any other legal provision, including Act No. 24-2014, but subject to the provisions of [Section 8 of Article VI of the Constitution of Puerto Rico](#), on or after the effective date of the lien (as such term is defined in § 2012a of Title 9), the special deposit established in subsection (a)(1) of this

section and the revenues derived from the excise tax on crude oil allocated to the Authority (as such term is defined in § 2012a of Title 9) shall belong to the Highways and Transportation Authority for the benefit of the holders of the bonds issued under the Resolution of 1968 (as such term is defined in § 2012a of Title 9), and the Resolution of 1998 (as such term is defined in § 2012a of Title 9), as applicable, and the revenues derived from the excise tax on crude oil allocated to the Authority (as such term is defined in § 2012a of Title 9), shall be deposited, by the Department of the Treasury of Puerto Rico, its authorized agent, or any other government instrumentality of the Commonwealth of Puerto Rico collecting the same, (i) with the fiscal agent under the Resolution of 1968 (as such term is defined in § 2012a of Title 9), and the Resolution of 1998 (as such term is defined in § 2012a of Title 9), as applicable, or (ii) after the bonds and obligations of the Highways and Transportation Authority issued under the Resolution of 1968 (as such term is defined in § 2012a of Title 9), and the Resolution of 1998 (as such term is defined in § 2012a of Title 9), as applicable, are fully repaid, with the Government Development Bank of Puerto Rico for the benefit of the Highways and Transportation Authority. Insofar as, on or after the effective date of the lien (as such term is defined in § 2012a of Title 9), the Government Development Bank of Puerto Rico or any other government instrumentality of the Commonwealth of Puerto Rico becomes the holder any of the revenues derived from the excise tax on crude oil allocated to the Authority (as such term is defined in § 2012a of Title 9), or other amounts pledged to secure the bonds or other obligations of the Highways and Transportation Authority under the Resolution of 1968 (as such term is defined in § 2012a of Title 9), or the Resolution of 1998 (as such term is defined in § 2012a of Title 9), as applicable, before such bonds or obligations are paid in full, the Government Development Bank of Puerto Rico or such other government instrumentality shall hold such revenues derived from the excise tax on crude oil allocated to the Authority (as such term is defined in § 2012a of Title 9), in trust for the benefit of the Highways and Transportation Authority free from any lien in favor of the Government Development Bank of Puerto Rico or compensation fee, and shall transfer such amounts to the fiscal agent or representative of the holders of the bonds and obligations of the Highways and Transportation Authority issued under the Resolution of 1968 (as such term is defined in § 2012a of Title 9), insofar as such amounts secure obligations under such Resolution and the Resolution of 1998 (as such term is defined in § 2012a of Title 9), insofar as such amounts secure obligations under said Resolution, to be used exclusively for the repayment of obligations under the Resolution of 1968 (as such term is defined in § 2012a of Title 9), and the Resolution of 1998 (as such term is defined in § 2012a of Title 9), as applicable.

The Secretary is hereby authorized to establish a collections mechanism whereby the revenues derived from the excise tax on crude oil allocated to the Authority (as such term is defined in § 2012a of Title 9) to be deposited as part of the aforementioned special deposit shall be paid directly by the taxpayer to the financial institution acting as fiscal agent of the holders of the bonds issued under the Resolution of 1998.

(2) The four cents (4¢) of the tax on gas oil or diesel oil established in § 31626 of this title shall be covered into a special deposit in favor of the Highways and Transportation Authority as provided in subsection (a)(1) of this section. The Department of Transportation and Public Works and the Highways and Transportation Authority, in conjunction with and with the advice of the Government Development Bank for Puerto Rico, are hereby authorized to assist the Metropolitan Bus Authority, if necessary, to restructure its debt backed in any way by the tax on gas oil or diesel oil prior to the approval of this act. The Metropolitan Bus Authority is hereby authorized to substitute the pledge or lien securing any revenues it may receive from the tax on gas oil or diesel oil prior to the approval of this act.

(3) The revenues collected from the tax on cigarettes established in § 31625 of this title up to twenty million dollars (\$20,000,000) per fiscal year shall be covered into a special deposit account in favor of the Highways and Transportation Authority for its corporate powers and purposes.

(A) The Secretary shall transfer every month or as agreed on with the Highways and Transportation Authority, the amounts covered into such special deposit account, deducting therefrom any amounts reimbursed in accordance with the provisions of § 31668 of this title.

(B) The Secretary shall pay such twenty million dollars (\$20,000,000) every fiscal year from the excise tax on cigarettes established in § 31625 of this title in monthly contributions of up to two million five hundred thousand dollars (\$2,500,000). If during any month of the fiscal year the revenues from the said excise tax do not suffice to make the two million five hundred thousand dollar (\$2,500,000) payment provided herein, the Secretary shall cover such deficiency using any excess of the two million five hundred thousand dollars (\$2,500,000) revenues collected on account of such excise tax on previous or subsequent months of the same fiscal year.

(C) The Highways and Transportation Authority is hereby authorized to pledge or encumber the proceeds from the excise tax on cigarettes established in § 31625 of this title for the payment of the principal of and interest on any bonds or other obligation or for any other lawful purpose of the Authority. Such pledge or encumbrance shall be subject to the provisions of [Section 8 of Article VI of the Constitution of Puerto Rico](#). The proceeds from such taxes shall be used solely for the payment of the interest on and amortization of the public debt, as provided in [Section 8 of Article VI of the Constitution](#) of the Government of Puerto Rico, insofar as the other available resources referred to in said Section do not suffice to attain such purposes. Otherwise, the proceeds from said tax, in the necessary amount, shall be used solely for the payment of principal of and interest on the bonds and other obligations of the Authority and to meet any stipulation agreed on by the Authority to the holders of its bonds and other obligations.

(4) The revenues collected from the tax on cigarettes established in § 31625 of this title up to ten million dollars (\$10,000,000) per fiscal year shall be covered into a special deposit account in favor of the Metropolitan Bus Authority for its corporate powers and purposes. The ten million dollars (\$10,000,000) per fiscal year to be covered into the special deposit account shall be the second priority and contingent on the deposit of twenty million dollars (20,000,000) from the revenues collected from the tax on cigarettes established in § 31625 of this title into the special deposit account in favor of the Highways and Transportation Authority as provided in subsection (a)(30) of this section.

(A) The Secretary shall transfer every month or as agreed with the Metropolitan Bus Authority, the amounts covered into such special deposit account, deducting therefrom any amounts reimbursed in accordance with the provisions of § 31668 of this title.

(B) The Secretary shall pay such ten million dollars (\$10,000,000) every fiscal year from the excise tax on cigarettes established in § 31625 of this title in monthly contributions of up to eight hundred thousand dollars (\$800,000). If during any month of the fiscal year the revenues from the said excise tax are not sufficient to make the eight hundred thousand dollar (\$800,000) monthly payment provided herein, the Secretary shall cover such deficiency using any excess of the eight hundred thousand dollars (\$800,000) revenues collected on account of such excise tax on previous or subsequent months of the same fiscal year.

(C) The Metropolitan Bus Authority is hereby authorized to pledge or encumber the proceeds from the excise tax on cigarettes established in § 31625 of this title for the payment of the principal of and interest on any bonds or other obligation or for any other lawful purpose of the Metropolitan Bus Authority. Such pledge or encumbrance shall be subject to the provisions of [Section 8 of Article VI of the Constitution](#)

of Puerto Rico. The proceeds from such taxes shall be used solely for the payment of the interest on and amortization of the public debt, as provided in [Section 8 of Article VI of the Constitution of Puerto Rico](#), insofar as the other available resources referred to in said Section do not suffice to attain such purposes. Otherwise, the proceeds from said tax, in the necessary amount, shall be used solely for the payment of principal of and interest on the bonds and other obligations of the Metropolitan Bus Authority and to meet any stipulation agreed on by the Metropolitan Bus Authority to the holders of its bonds and other obligations.

(5) Beginning on Fiscal Year 2015-2016, the revenues collected from the tax on cigarettes established in § 31625 of this title up to thirty six million dollars (\$36,000,000) per fiscal year shall be covered into a special deposit in favor of the Puerto Rico Integrated Transportation Authority for its corporate powers and purposes. The thirty six million dollars (\$36,000,000) per fiscal year to be covered into the special deposit in favor of the Puerto Rico Integrated Transportation Authority shall be the third priority and contingent on the deposit of twenty million dollars (\$20,000,000) from the revenues collected from the tax on cigarettes established in § 31625 of this title to be covered into the special deposit in favor of the Highway and Transportation Authority as provided in clause (3) of this subsection, and on the deposit of the ten million dollars (\$10,000,000) of the revenues collected from the tax on cigarettes imposed under § 31625 of this title covered into the special deposit in favor of the Metropolitan Bus Authority, as provided in clause (4) of this subsection.

(A) The Secretary shall transfer every month or as agreed with the Puerto Rico Integrated Transportation Authority, the amounts covered into such special deposit account, deducting therefrom any amounts reimbursed in accordance with the provisions of § 31668 of this title.

(B) The Secretary shall pay such thirty six million dollars (\$36,000,000) every fiscal year from the excise tax on cigarettes established in § 31625 of this title in monthly contributions of up three million dollars (\$3,000,000). If during any month of the fiscal year the revenues from the said excise tax are insufficient to make the three million dollar (\$3,000,000)-monthly payment provided herein, the Secretary shall make up such deficiency using any excess of the three million dollars (\$3,000,000) revenues collected on account of such excise tax on previous or subsequent months of the same fiscal year.

(C) The transfer to the Puerto Rico Integrated Transportation Authority of the revenues derived from said excise tax shall be subject to the provisions of [Section 8 of Article VI of the Constitution of Puerto Rico](#). The revenues derived from such taxes shall be used solely for the payment of the interest on and amortization of the public debt, as provided in [Section 8 of Article VI of the Constitution of Puerto Rico](#), insofar as the other available resources referred to in said Section are insufficient to attain such purposes. If the Commonwealth of Puerto Rico uses any amount of the revenues collected from the tax on cigarettes fixed in § 31625 of this title for the payment of interest on and the amortization of the public debt as provided in [Section 8 of Article VI of the Constitution](#), the amounts used by the Commonwealth of Puerto Rico for the payment of interest on and the amortization of the public debt shall be reimbursed to the Puerto Rico Integrated Transportation Authority from the revenues collected by the Commonwealth of Puerto Rico in the following fiscal year or, if such reimbursement is not possible in the following fiscal year, in subsequent fiscal years, except those revenues that have been pledged to meet any obligation. The revenues derived from such taxes that are to be used as provided in this section to reimburse the Puerto Rico Integrated Transportation Authority any amount used by the Commonwealth of Puerto Rico for the payment of interest on and the amortization of the public debt, shall not be covered into the General Fund of the Government of the Government of Puerto Rico when collected, but rather transferred to the Puerto Rico Integrated Transportation Authority and, subject to

the provisions of [Section 8 of Article VI of the Constitution of Puerto Rico](#), shall be used to reimburse said amounts to the Puerto Rico Integrated Transportation Authority.

(D) Notwithstanding any other provision to the contrary, the Puerto Rico Integrated Transportation Authority shall transfer any amount corresponding to the tax collected by virtue of § 31625 of this title to pay any debt or obligation of the Infrastructure Financing Authority backed by the taxes collected by virtue of § 31627a of this title, insofar as the revenues from said taxes are insufficient to repay such debts or obligations and the documents related to said debt or obligation of the Infrastructure Financing Authority so requires.

The Secretary shall transfer from time to time as agreed with the Authority, the amounts covered into the special deposit, deducting from these the amounts reimbursable according to the provisions of §§ 31669 and 31670 of this title.

Credits

-Jan. 31, 2011, No. 1, § 3060.11, retroactive to Jan. 1, 2011; Dec. 10, 2011, No. 232, § 138; June 25, 2013, No. 31, § 3; Jan. 15, 2015, No. 1, § 2.07; Mar. 13, 2015, No. 29, § 5; Sept. 30, 2015, No. 159, § 16.

History

Amendments -2015.

Subsection (a)(5): Act Sept. 30, 2015, No. 159 substituted 'As of the approval of the new tax system of Puerto Rico' with 'Beginning on Fiscal Year 2015-2016' in the introductory paragraph.

Subsection (a)(1)(G): Act Mar. 13, 2015, No. 29 substituted 'effective date' with 'effective date of the lien'.

Subsection (a): Act Jan. 15, 2015, No. 1 added the reference to § 31751a of this title in the introductory paragraph.

Subsection (a)(1): Act Jan. 15, 2015, No. 1 amended paragraph (B) generally, added the Proviso in paragraph (E) and added paragraphs (F) and (G).

Subsection (a)(5): Act Jan. 15, 2015, No. 1 added clause (5). **-2013.**

Subsection (a)(1): Act 2013 substituted 'up to one hundred twenty (120) million dollars' with 'the total amount' after '§ 31626 of this title'.

Subsection (a)(1)(B): Act 2013 deleted the former paragraph (B), redesignating the rest of the paragraphs.

Subsection (a)(1)(F): Act 2013 deleted 'and the amount of the excise tax on oil crude, partially finished and finished oil by-products, and any other mixture of hydrocarbons fixed in § 31627 of this title' two times.

Subsection (a)(2): Act 2013 amended this clause generally.

Subsection (a)(3) and (4): Act 2013 added these clauses and paragraphs. **-2011.**

Act 2011 designated the introductory paragraph as subsection (a).

Effectiveness.

See note under § 30011 of this title.

Statement of motives.

Dec. 10, 2011, No. 232.

June 25, 2013, No. 31.

Jan. 15, 2015, No. 1.

Mar. 13, 2015, No. 29.

Sept. 30, 2015, No. 159.

Separability.

Section 39 of Act Sept. 30, 2015, No. 159, provides: 'If any article, provision, paragraph, subsection, clause and sub clause or part of this Act which amended this section were held to be null or unconstitutional by a competent court, said holding shall not affect, impair or invalidate the remaining provisions of this Act.'

Section 7 of Act Mar. 13, 2015, No. 29, provides: 'If any article, section, subsection, paragraph, subparagraph, clause or part of this Act which amended this section were held to be null or unconstitutional by a competent court, such holding shall not affect, impair, or invalidate the remaining provisions and parts of this Act.'

See note under § 30011 of this title.

13 L.P.R.A. § 31751, PR ST T. 13 § 31751

Current through all acts translated by the Translation Office of the Puerto Rico Government through the 2011 Legislative Session and various acts from 2012 to the present. Appendices III (Rules of Civil Procedure) and IV (Rules of Evidence) of Title 32 have been replaced by Appendices V (Rules of Civil Procedure) and VI (Rules of Evidence) of Title 32 by Order of the Supreme Court dated Sept. 4, 2009, but the official translations are not yet available. Also, the official translations of Appendices XII through XXII of Title 3, which encompass various reorganization plans of the Puerto Rico Government and promulgated in 2010 through 2012, have not yet been received. For all missing translations, please consult the Spanish version.

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